

BC 144-00
VAR

Lusk, Alvinia
00-05

MSA-S-1829-913

lit
00000000
3/27/00

Judge John C. North, II
Chairman



Ren Serey
Executive Director

**STATE OF MARYLAND
CHESAPEAKE BAY CRITICAL AREA COMMISSION**

45 Calvert Street, 2nd Floor, Annapolis, Maryland 21401
(410) 974-2426 Fax: (410) 974-5338

March 27, 2000

Mr. Keith Kelley
Baltimore County - DEPRM
County Courts Building
401 Bosley Avenue
Baltimore, Maryland 21204

Re: Alvina Lusk Property
Local Number 00-05

Dear Mr. Kelley:

Thank you for forwarding the above-referenced variance request to permit filling in the 100-foot Buffer. It appears the applicant proposes to fill holes created by erosion. Provided this filling will not require clearing of vegetation in the Buffer and is for the purposes of maintenance, this office has no objection to the request. We recommend the applicant plant native species within the Buffer to aid in holding the soils to prevent this issue in the future.

Any proposed filling waterward of the mean high water line requires an application to the Maryland Department of the Environment (MDE), Tidal Wetlands Division. If the County suspects the area of lawn proposed for fill could be a nontidal wetland, the Nontidal Wetland Division of MDE should be contacted.

Thank you for the opportunity to comment. Please include this letter in your file and submit it as part of the record for variance. Please notify the Commission of the decision made in this case.

Sincerely,

A handwritten signature in cursive script that reads "Lisa A. Hoerger".

Lisa A. Hoerger
Natural Resources Planner

cc: BC 144-00

Branch Office: 31 Creamery Lane, Easton, MD 21601
(410) 822-9047 Fax: (410) 820-5093



Baltimore County
Department of Environmental Protection
and Resource Management

Office of the Director
401 Bosley Avenue, Suite 416
Towson, Maryland 21204

RECEIVED

April 14, 2000

APR 25 2000

Ms. Alvina Lusk
4250 Lynhurst Road
Baltimore, MD 21222

CHESAPEAKE BAY
CRITICAL AREA COMMISSION

Re: 4250 Lynhurst Road
Critical Area Administrative Variance

The Department of Environmental Protection and Resource Management (DEPRM) has received your variance request to fill/grade 2000 square feet of the above property which is in the 100 foot tidal buffer to Back River. The Director of DEPRM may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five (5) of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure, and that literal enforcement of the regulations would result in unwarranted hardship. The area of the lot that is eroding due to flooding and runoff is in the 100 foot tidal buffer. If nothing is done, more land would be lost; resulting in unwarranted hardship.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. Many of the older properties along the Chesapeake Bay waterfront are within the 100 foot tidal buffer. This variance allows maintenance of the lot, which is improved with a home, outbuildings, and lawn.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting of this variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. This variance is not based upon conditions or circumstances which are the result of your actions.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area.

★ Census 2000

★ For You, For Baltimore County

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April 14, 2000
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With implementation of the conditions imposed below, granting of the variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

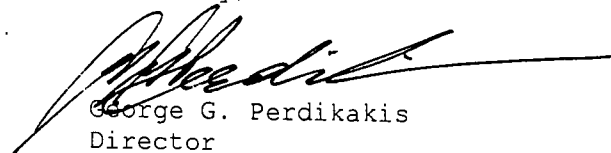
Based upon our review, it is this Departments findings that the first four of the above criteria have been met, and that the fifth criterion can be met by planting four (4) native 5-6 foot tall trees from the enclosed list in the 100 foot tidal buffer. Therefore, the requested variance is hereby approved in accordance with Section 26-445(c) of the Baltimore County Code with the following conditions:

1. The attached Notice of Granting of Variance must be published in The Avenue, Dundalk Eagle or The East County Times. Final variance approval cannot be granted until fifteen (15) calendar days after the notice has been published. A copy of the Certificate of Publication for the advertisement issued by the newspaper, or a copy of the advertisement from the paper must be submitted to this office prior to receiving final variance approval.
2. The four (4) native trees must be planted by June 15, 2000.

Please sign the statement on the next page and then return a copy of the letter along with your Certificate of Publication plan to this Department c/o Ms. Patricia M. Farr of Environmental Impact Review. Failure to return a signed copy of this letter and the Certificate of Publication may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Mr. Keith Kelley at (410) 887-3980.

Sincerely,



George G. Perdikakis
Director

GGP/KK

Attachment

cc: Ms. Regina Esslinger, CBCA Commission
Ms. Patricia M. Farr

kk#9/luskcaav

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April 14, 2000
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I/We have read and agree to implement the above requirements to bring my/our property into compliance with Chesapeake Bay Critical Area regulations.

Signature

Date

Signature

Date